

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. '10 - CV - 02513
(To be supplied by the court)

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

OCT 14 2010

GREGORY C. LANGHAM
CLERK

JAMES R. Hoff
Plaintiff,

v.

PRIDE INDUSTRIES
Defendant.

RECEIVED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

OCT - 7 2010

TITLE VII COMPLAINT

GREGORY C. LANGHAM
CLERK

PARTIES

1. Plaintiff JAMES R. Hoff is a citizen of UNITED STATES
who presently resides at the following address:
2310 BEACON ST. COLORADO SPRINGS, CO.
80907
2. Defendant PRIDE INDUSTRIES lives at or is located at the following
address:
10030 FOOTHILLS BLVD. ROSEVILLE, CA
95747

Attach a separate page, if necessary, to list additional parties.

JURISDICTION

3. Jurisdiction is asserted pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-5.
4. Defendant is an employer within the meaning of Title VII.
5. The alleged unlawful employment practices took place at the following location:
OCEANNA NAVAL AIR STATION
6. Jurisdiction also is asserted pursuant to the following statutory authority:
UNITED STATES DISTRICT COURT

ADMINISTRATIVE PROCEDURES

7. Plaintiff filed a charge of discrimination with the Equal Employment Opportunity Commission or other appropriate administrative agency on 4-6-09 (date) regarding the alleged discriminatory conduct by Defendant(s).
8. Plaintiff received from the Equal Employment Opportunity Commission or other appropriate administrative agency a Notice of Right to Sue the Defendant(s) on 7-15-10 (date). (Please attach to the complaint a copy of the Notice of Right to Sue.)

NATURE OF THE CASE

9. Defendant has discriminated against Plaintiff because of the following: (please check all that apply)

☐ Race

☐ Color

☐ Religion

☐ Sex

☐ National Origin

☒ Other (please specify) HANDICAP (POLIO)

10. Defendant has discriminated against Plaintiff because of the following: (please check all that apply)

☒ Failure to hire

☐ Failure to promote

☐ Demotion/discharge from employment

☒ Other (please specify) HANDICAP (POLIO)

**FIRST CLAIM FOR RELIEF
AND SUPPORTING FACTUAL ALLEGATIONS**

(Please number your paragraphs and attach any necessary additional pages.
Alternatively, you may attach to the complaint a copy of the charge of discrimination
you submitted to the Equal Employment Opportunity Commission.)

On or about 10-10-08, I applied for a job at Pride Industries Inc. The job was located at Oceanna Naval Air Station in Virginia Beach, VA. I handed my application to MR. CARY YOUNG. He implied that I should be working my Monday P.M. (NIGHTS). He said that ~~he~~ ^{she} just needed to fax my application to Ms. Erica Johnson. Shook my hand & said "Welcome Aboard!" Ms. Johnson called me & she asked about my handicap. I told her that

(Rev. 07/06) 3 OVER →

**SECOND CLAIM FOR RELIEF
AND SUPPORTING FACTUAL ALLEGATIONS**
(Please number your paragraphs and attach any necessary additional pages.)

I had polio since birth. She replied that I wasn't disabled enough; that this conversation was over.

**THIRD CLAIM FOR RELIEF
AND SUPPORTING FACTUAL ALLEGATIONS**
(Please number your paragraphs and attach any necessary additional pages.)

REQUEST FOR RELIEF

Plaintiff requests the following relief:

I need all the help that I can get. I have no job, no money & no true home. I have Ratic & my eye sight is failing.

Date: 10-7-10


(Plaintiff's Original Signature)

2510 BEACON ST.

(Street Address)

COLORADO SPRINGS, CO
(City, State, ZIP) 80907

719-209-7825

(Telephone Number)

In Regards to the letter from Pride Industry,
All Handicaps are severe. As growing up as a
Child I can tell you. Going to the Doctor once a
Month, being fitted for leg braces and surgery, and
not being able to put the heel of your foot all the
way to the ground, This makes walking, Maintaining
Balance and Playing as a Child very difficult. Not
to mention other Children are cruel and aggressive
towards my Handicap! There were activities other kids
could do, that I couldn't do, for example baseball, How
do you think it feels when you can't play because you
can't run the bases and eye hand motor skills are off
set. Now winter is even more scary, because with a
Handicap you're bound to fall, I can't even tell you
how often that happened, Ice is my worst nightmare!
and that is a couple of things I had to deal with.

So as you can see every or all Handicaps ARE SEVERE

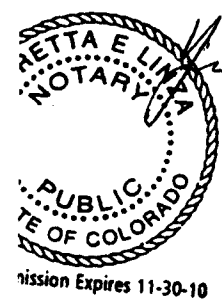
Regarding My Twenty four years of Employment, I don't see how that really matters, but I will explain.

Erica Johnson working for the HR Dept. and dealing with handicapped people, she should know what the long term Effects, on those people with handicapped. Considering my age and my handicap she should of factored that in. I should of been called in for a face to face meeting and evaluated by a Doctor, before she made any kind of a Decision. I repeatedly told Miss Johnson That I have Polio! Again I state long term effects of this disease were Never Considered! It would seem to me that would be part of her job knowing what the disease does to you as you age. I am living proof as well as any other Polio Survivors Can tell you this disease will eventually put u in a wheel chair and finally be the cause of my demise or Death. That is what Polio does. Your life never gets better only worse!

As far as my work history goes, that should not even be a consideration. I did the best that I could do. But the long Term effects are now taking their tolls on my Body. I believe by saying that I was able to work for Twenty Four years, and Counting that against me is a stereotyping and a prejudicial to what you are really saying is all handicapped people can't hold a regular job and have a good attendance record? and long Term Employment!

The reason I was able to maintain a job for twenty four years, a small company hired me and took me under their wing and worked with my handicap by giving me helper runs and raises work, they also supplied me with a helper everyday and then helped me to find a better suited to my Disability.

In Chicago Ben Jones supplied me with a helper whom I did about Eighty Five percent of the work. Towards the end of my Career, they supplied me with 2 helpers, The extra helper was called a Medical helper. I never had any more injuries according to me on the job.



SUBSCRIBED AND SWORN BEFORE ME THIS 22 DAY OF March 20 10

NOTARY-EL PASO COUNTY-COLORADO

MY COMMISSION EXPIRES 11-30-10

12 Hall

22-10

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: **James Hoff**
4370 Morning Sun Ave.
Apt. 16
Colorado Springs, CO 80918

From: **Charlotte District Office**
129 W. Trade Street
Suite 400
Charlotte, NC 28202



On behalf of person(s) aggrieved whose identity is
 CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

437-2009-00665

Carlos Villescas,
Deputy Director

(704) 344-6736

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

Reuben Daniels, Jr.

Reuben Daniels, Jr.,
District Director

JUL 15 2010

(Date Mailed)

Enclosures(s)

cc:

Donna Walters
Director of Human Resources
PRIDE INDUSTRIES HEADQUARTERS
10030 Foothills Boulevard
Roseville, CA 95747

**INFORMATION RELATED TO FILING SUIT
UNDER THE LAWS ENFORCED BY THE EEOC**

*(This information relates to filing suit in Federal or State court under Federal law.
If you also plan to sue claiming violations of State law, please be aware that time limits and other
provisions of State law may be shorter or more limited than those described below.)*

**PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA),
the Genetic Information Nondiscrimination Act (GINA), or the Age
Discrimination in Employment Act (ADEA):**

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge **within 90 days of the date you receive this Notice**. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed **within 90 days of the date this Notice was mailed to you** (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred **more than 2 years (3 years) before you file suit** may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/08 to 12/1/08, you should file suit **before 7/1/10 – not 12/1/10** -- in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

ATTORNEY REPRESENTATION -- Title VII, the ADA or GINA:

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, **please make your review request within 6 months of this Notice**. (Before filing suit, any request should be made within the next 90 days.)

IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Charlotte District Office

129 West Trade Street, Suite 400
Charlotte, NC 28202
Intake Information Group: 800-669-4000
Intake Information Group TTY: 800-669-6820
Direct Dial: (704) 344-6686
TTY (704) 344-6684
FAX (704) 954-6410
Website: www.eeoc.gov

July 13, 2010

James Hoff
4370 Morning Sun Ave.
Apt. 16
Colorado Springs, CO 80918

Re: Hoff versus PRIDE INDUSTRIES HEADQUATERS
EEOC Charge No.: 437-2009-00665

Dear Mr. Hoff:

The processing of your charge of employment discrimination in the above referenced matter has been completed. The Equal Employment Opportunity Commission (EEOC) is dismissing your charge and is issuing to you a Notice of Right to Sue.

The evidence obtained by the Commission indicates that the basis for the decision to not select you for the position which you applied for is directly related to the nature of the mission of the Respondent. Namely, Pride Industries operates under an Ability One Program contract at the Oceana Commissary. The contract requires that at least 75 % of the direct labor hours be performed by employees with disabilities. The Respondent assessed your previous employment history and determined that you had a "strong longstanding competitive employment background which made you ineligible for selection under the eligibility requirements of the Ability One /KWOD Program to be considered "severely disabled."

In view of these facts, it is unlikely that further investigation of your charge will result in a finding that a violation of the law(s) under which you filed your charge has occurred. For that reason, we have dismissed your charge and closed your file.

Enclosed you will find a Dismissal Notice of Right to Sue and an Information Sheet which describes your right to pursue the matter in court by filing a lawsuit within 90 days of your receipt of the dismissal notice. This 90-day period for filing a private lawsuit cannot be waived, extended or restored by EEOC.

I regret that we cannot be of further assistance to you in this matter.

Sincerely,

A handwritten signature in black ink, reading "Carlos R. Villegas", is written over a horizontal line.

Carlos R. Villegas
Deputy District Director